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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/690,409 | 10/17/2000 | Hans-Peter Wild | PA 30573 | 3320 |

7590 04/23/2003

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EXAMINER

TRUONG, THANH K

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 04/23/2003

21

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|-----------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/690,409 | WILD ET AL. <i>CK</i> |
| Examiner | Art Unit | |
| Thanh K Truong | 3721 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 February 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
- 1.) Certified copies of the priority documents have been received.
- 2.) Certified copies of the priority documents have been received in Application No. _____.
- 3.) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: <i>Exhibit A</i> . |

DETAILED ACTION

1. This action is in response to applicant's amendment, Paper No. 20, received on February 24, 2003.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Geyssel (4,584,046).

Geyssel discloses an apparatus for applying a drinking straw to a receiving surface of a stand up bag comprising: transfer means (figure 9) which rotates a transfer drum 20, stand up bag 12, drinking straw 11, supply of drinking straws 30, and conveying surface 13; the transfer means is arranged so that the drinking straw while being handed over encloses an acute angle θ (marked as θ by the examiner on figure 9) with the conveying surface. The angle θ corresponds to the angle formed by the stand up bag receiving surface and the opposite side surface of the bag lies on the conveying surface.

Response to Arguments

4. Applicant's arguments filed February 24, 2003 have been fully considered but they are not persuasive.

In respond to the applicant's argument that the article which is adapted to receive the drinking straw, in figure 9 of Geyssel, is resting on the conveyor surface on its

bottom surface and not on the side surface, the examiner's interpretation of the figure 9 of Geyssel is that the package 12 is resting on its side as claimed.

Furthermore, Geyssel discloses that the transfer means "can be tilted about two perpendicular directions and can be secured in order that the drinking straws can be secured in different directions and on variously inclined surfaces of the package" (abstract and column 2, lines 24-31), and Geyssel discloses that the drinking straws can be applied to varieties of objects such as packages, bottles, bags, etc. (column 1, lines 43-46), therefore, the package 12 from figure 9 can be replaced by any articles that the side surface is resting on the conveyor surface opposite to the receiving surface, and the transfer means is arranged so that the drinking straw while being handed over encloses an acute angle θ as claimed.

To further demonstrate the examiner's interpretation of the figure 9 of Geyssel please refer to the exhibit A (attached to this Office Action).

Figure 9 of the exhibit A shows the stand up bag ABC (by extending two sides of the container), as the angle θ changes to angle θ' (the stand up bag A'B' C), the angle β will change to accommodate variety of inclined surfaces of the package. Geyssel teaching clearly anticipates the stand up bag as claimed by the Applicant's invention.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K Truong whose telephone number is (703) 605-0423. The examiner can normally be reached on Mon-Thurs from 8:00 AM to 6:30 PM.

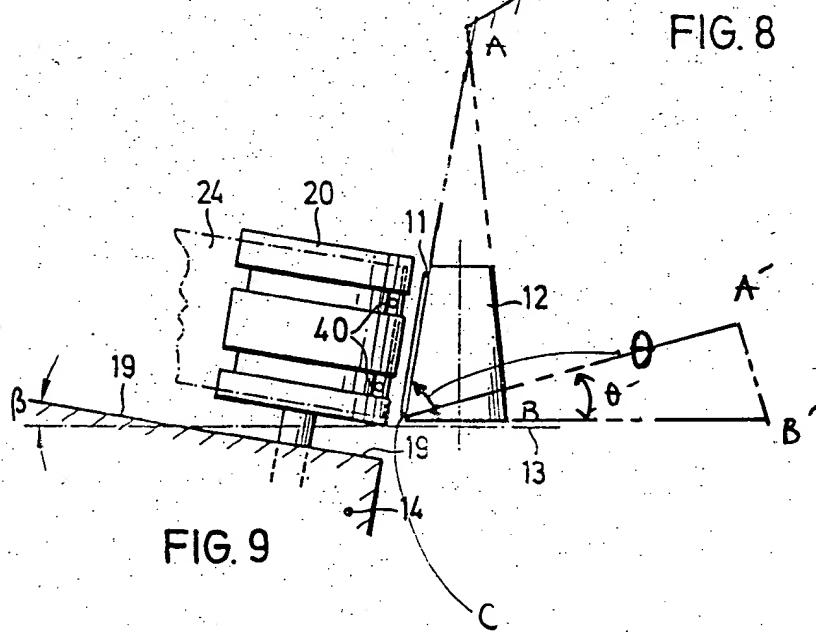
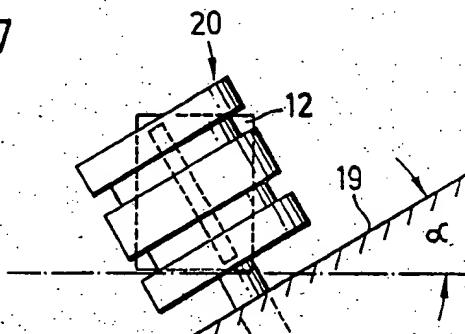
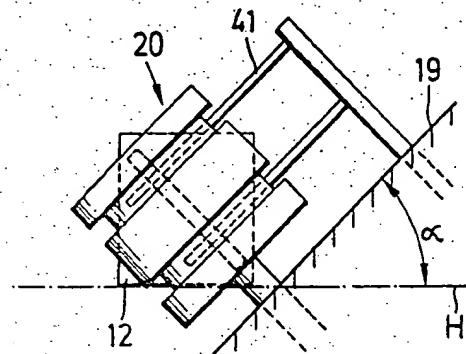
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 872-9301.



tkt
April 19, 2003

Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700

EXHIBIT A

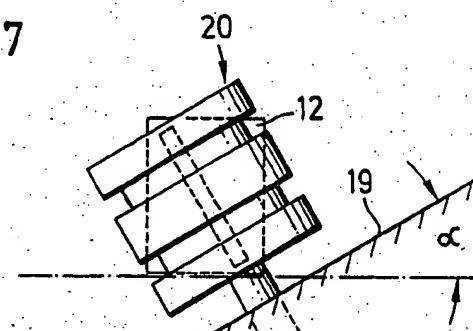
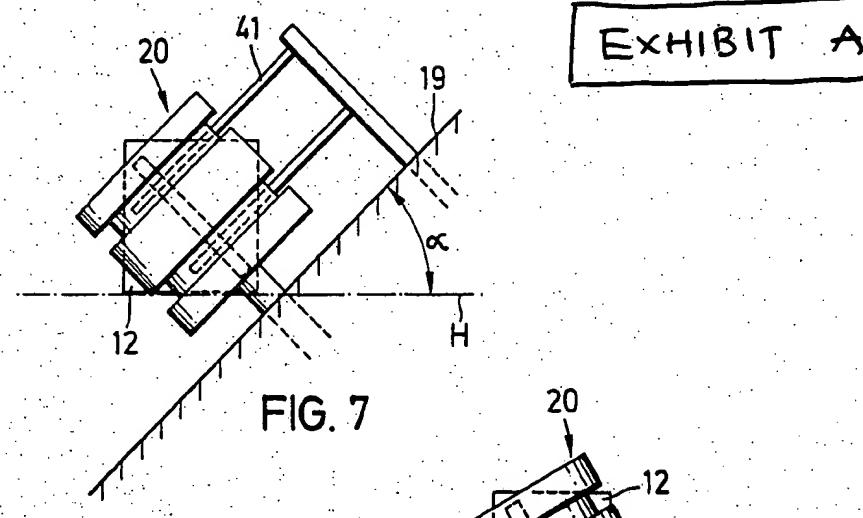


FIG. 8

